



# **Goods and Services Tax Act 2007**

**No. 4, 2007**

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NORFOLK



ISLAND

# GOODS AND SERVICES TAX ACT 2007

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NORFOLK



ISLAND

## Goods and Services Tax Act 2007

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An Act to provide for a tax on certain sales of goods and services  
**BE IT ENACTED** by the Legislative Assembly of Norfolk Island as follows —

### PART 1—PRELIMINARY

#### 1 Short title

This Act may be cited as the *Goods and Services Tax Act 2007*.

#### 2 Commencement

This Act commences upon notice of assent being published in the Gazette, but sections 5, 27 and 28 have effect from 2 April 2007 (the “effective date”).

#### 4 Definitions

(1) In this Act words and phrases have the meaning given in this section unless the contrary intent is expressed —

“allowable deduction” has the meaning in subsection 5(3);

....

“associated person” in respect of a registered person includes —

- (a) where that person is a natural person,
  - (i) a spouse, former spouse, de facto spouse or domestic partner of either sex, parent, grandparent, child, sibling, or cousin to the third degree; or
  - (ii) a partner, whether or not the partnership is evidenced by a formal agreement;
- (b) where that person is a company registered in Norfolk Island or elsewhere, a company that is related to that person as a holding company or as a subsidiary and includes all companies that are holding companies or subsidiaries of any company that is so related to that person;

....

“Chief Revenue Officer” means the person holding or acting in the office established under section 15;

“creditable acquisition” is —

- (a) the acquisition of a thing solely or partly for a creditable purpose; where
- (b) the supply of the thing is a taxable supply to the acquirer; and
- (c) consideration is given by the acquirer for the supply; and
- (d) the acquirer is a registered person, or required to be registered;

“creditable purpose” means a purpose for which a thing is acquired—

- (a) to the extent that —
  - (i) it is acquired for carrying on a commercial activity; and
  - (ii) the acquisition is not of a private or domestic nature; and
- (b) provided the acquisition is not of a capital nature.

....

“GST” means the goods and services tax imposed by section 5;

....

“GST free” means a supply that is GST free under the Regulations;

“GST return” means the monthly return lodged in accordance with section 10;

“goods” includes every kind of moveable property including electrical energy, gas, petroleum products, and telecommunications services, tickets (however described) in a lottery raffle or similar undertaking or bets taken in relation to a race, game, or sporting event, or any other event for which there is an outcome, but not actionable claims (choses in action), money (except in relation to the sale of one currency in exchange for another), stocks, shares and securities;

....

“input tax credit” has the meaning given by subsection 5(4);

“month” means calendar month;

“person” includes —

- (a) a company whether or not incorporated or registered as a foreign company in Norfolk Island, an unincorporated association, a partnership (formal or informal), a public instrumentality and the Administration but does not include the Commonwealth or an authority of the Commonwealth; and

....

“registered person” means a person who has registered under section 6 and has been issued a Norfolk Business Number;

....

“sales revenue” means the actual consideration received by a registered person in respect of the sale of goods or services, whether the consideration is received —

- (a) directly or indirectly;
  - (b) by or on behalf of or for the benefit of the person;
  - (c) in cash or in kind,
- and whether in Norfolk Island or elsewhere;

“services” includes the activities of a person in the course of carrying on a trade, profession, or business whether or not they are, or are required to be, registered in Norfolk Island or elsewhere in order to carry on that trade, profession, or business lawfully but does not include the casual, part-time or permanent employment services provided by a person bona fide employed by another;

“supply” means any form of supply whatsoever and includes—

- (a) the supply of—
  - (i) goods;
  - (ii) services;
  - (iii) advice; and
  - (iv) information;
- (b) hiring, leasing;
- (c) the creation, grant, transfer, assignment or surrender of a right;
- (d) the entry into or release from an obligation;
- (e) a novation;
- (f) any combination of two or more of the matters in paragraphs (a) to (e),

but a supply of money is not included unless the money is consideration for a supply that is a supply of money and it is immaterial that a supply is wholly or in part unlawful or contrary to public policy.

“tax invoice” means an invoice issued under section 9A;

“tax period” means a calendar month in respect of which a GST return is required to be lodged under section 10;

“taxable supply” is the supply of goods or services in Norfolk Island for consideration by a registered person, or a person who is required to be registered, in the course or furtherance of a commercial activity however the supply is not a taxable supply to the extent that it is GST-free;

“the repealed Act” means the *Norfolk Island Sustainability Levy Act 2006*.

- (2) (a) a “commercial activity” is an activity, or series of activities, done—
- (i) in the form of a business; or
  - (ii) in the form of an adventure or concern in the nature of trade; or
  - (iii) on a regular or continuous basis, in the form of a lease, licence or other grant of an interest in property;
  - (iv) by a charitable institution or by a trustee of a charitable fund; or
  - (v) by a religious institution.

- (b) however, commercial activity does not include an activity, or series of activities, done—
  - (i) by a person as an employee; or
  - (ii) as a private recreational pursuit or hobby; or
  - (iii) by an individual (other than a trustee of a charitable fund), or a partnership (all or most of the members of which are individuals), without a reasonable expectation of profit or gain; or
- (c) for the avoidance of doubt, the fact that activities of an entity are limited to making supplies to members of the entity does not prevent those activities—
  - (i) being in the form of a business within the meaning of paragraph (2)(a); or
  - (ii) being in the form of an adventure or concern in the nature of trade within the meaning of paragraph (2)(b).

#### **4A Commonwealth exemption**

This Act does not apply to the Commonwealth or a body or authority established for a public purpose by or under a law of the Commonwealth.

#### **4B Administration not liable to pay GST**

(1) The Administration is not liable to pay GST payable under this Act. However, the Administration should—

- (a) be notionally liable to pay GST payable under this Act; and
- (b) be notionally entitled to input tax credits arising under this Act; and
- (c) notionally have adjustments arising under this Act.

(2) The executive member may give such written directions as are necessary or convenient for carrying out or giving effect to subsection (1) and, in particular, may give directions in relation to the transfer of money within an account, or between accounts, operated by the Administration.

(3) Directions under subsection (2) must be complied with by the Administration, despite any other law of Norfolk Island.

(4) If the Administration is notionally liable to pay GST for a supply made to another person this Act applies in relation to the other person as if—

- (a) the supply were a taxable supply to that person; and
- (b) the amount of GST for which the Administration is notionally liable for the supply is treated as the amount of GST payable for the supply.

**4C Some supplies by the Administration may be GST free**

(1) The payment of any fee or charge (other than the GST) that is made, or the discharging of a liability to make such a payment, is to be treated as the provision of consideration, to the person to whom the tax, fee or charge is payable, for a supply that the person makes.

(2) However, the payment of any tax, fee or charge that is specified by the executive member by instrument, or the discharging of a liability to make such a payment, is not, for any purpose under this Act, the provision of consideration.

**PART 2 – GOODS AND SERVICES TAX****5 The Goods and Services Tax**

(1) Subject to the provisions of this Act there is imposed a goods and services tax known as the GST.

(2) Taxable supplies in respect of a period are liable to GST at the rate of 12% of the value of the consideration for those supplies.

(3) The net amount of GST payable is calculated by deducting from the total GST liability under subsection (2) in respect of the period, any—

- (a) input tax credits; and
- (b) allowable deductions.

(4) An input tax credit means an amount equal to the GST component of the consideration for a creditable acquisition.

(5) An allowable deduction means —

- (a) an amount equal to the customs duty paid by the registered person in respect of goods imported by the registered person before the commencement of this Act and in respect of which GST is payable and provided that subsection 27(4) has been complied with;

**Note:** the import duty deduction can only be claimed by the person who imported the goods and paid the duty and only in respect of goods upon which GST is payable and only if a stocktake complying with section 27(4) has been completed and lodged.

- (b) such other deductions as may be allowed in accordance with Regulation.

(6) Deductions claimed under paragraph (5)(a) can only be claimed to a maximum of 50% of the total GST payable in any month but excess amounts may be claimed in subsequent months.

(7) If, before the expiry of paragraph (5)(a), the commercial activity of a registered person is sold as a going concern by means of a bona fide arms length transaction for a price and subject to conditions that are fair and reasonable, the registered person may apply to the Chief Revenue Officer to be paid by the Administration the amount of any customs duty that at the time of the sale is claimable and has not been claimed under paragraph (5)(a).

(8) The Chief Revenue Officer must not approve payment of a claim under subsection (7) unless the executive member certifies that he or she is satisfied of the matters set out therein, and that no debt is owed, or other moneys are owing, to the Administration by the registered person, whether in respect of GST liability or otherwise.

(9) Paragraph (5)(a) expires on 30 June 2012.

**Note:** The intention of this provision is to provide a period of grace to dispose of the stock without paying GST on the effective component of Customs Duty in the price.

(10) Subsection (7) has effect from 16 March 2007.



## 6 Registration

(1) Except as provided in subsections (2) and (3), all persons who carry on, or intend to carry on, a commercial activity in Norfolk Island must register with the Chief Revenue Officer before commencing a commercial activity.

(2) A person registered for the purpose of the repealed Act is deemed to be registered for the purpose of this Act and a NBN issued under subsection 5(5) of the repealed Act continues in force for the purposes of this Act.

(3) A person is not required to register if the person has a bona fide expectation based on reasonable grounds that he or she will not derive from making taxable supplies in any consecutive period of 12 months, an aggregate consideration exceeding in value \$3,000.

(3A) The Regulations may prescribe an amount different from that in subsection (3).

(4) A person who has not registered because of their reliance upon subsection (3) must register within 10 days of becoming aware that the person has or will be likely by the end of the next following month cease to be eligible to so rely on that subsection.

(4A) The Chief Revenue Officer shall register a person if he or she is satisfied upon reasonable grounds that the person is not, or has ceased to be, entitled to rely on subsection (3) and is otherwise required to register under subsection (1).

(4B) A person not registered, or not registered in reliance upon subsection (3), must not charge or purport to charge GST upon the supply of any goods or services.

Penalty: 10 penalty units.

(4C) The registration of a person under section 6 may be cancelled by the Chief Revenue officer—

- (a) if he or she forms the opinion that the person has ceased to be eligible to be registered; or
- (b) upon application by the registered person upon the ground that the person has ceased to be eligible for registration and is unlikely to be required to be registered in future,

but is not required to cancel a person's registration.

(4D) Cancellation of a person's registration under subsection (4C) does not relieve that person of the obligation to account to the Chief Revenue Officer for GST payable in respect of consideration received by a person after cancellation of their registration.

(5) An application for registration must be in the approved form and include the approved information.

(6) Upon registration, the Chief Revenue Officer shall allocate to an applicant a unique registration number known as the Norfolk Business Number and also referred to as "NBN".

(7) Registered persons must include the number, or cause the number to be included on all —

- (a) letter heads;
- (aa) faxes;
- (ab) emails;

- (ac) contractual documents.
- (b) tax invoices;
- (c) tax receipts;
- (d) orders; and
- (e) statements of account,

issued by them or on their behalf to another person.

(8) The NBN referred to in subsection (6) may be abbreviated and referred to as “N.B.N.” or “NBN”.

(9) A registered person who does not display their NBN in accordance with subsection (7) commits an offence.

Penalty: 1 penalty unit.

(10) A person who includes on any document of the kind referred to in subsection (7) a false NBN, or the NBN of another person, commits an offence.

Penalty: 5 penalty units.

(11) A person who carries on commercial activity in Norfolk Island and who is required to be registered but is not registered in accordance with this section commits an offence.

Penalty: 20 penalty units.

#### **6A Registration of associated persons**

(1) If one or more associated persons carry on business they may apply under section 6 to be registered under the same NBN or each may register and receive separate NBNs.

(2) If associated persons apply for and receive separate NBNs, their monthly returns in accordance with section 10 must be presented separately in the approved form.

#### **7 Assessments and appeals**

- (1) The Chief Revenue Officer may issue an assessment to—
- (a) a registered person who has failed to lodge a return under section 10; or
  - (b) a person carrying on business who he or she believes is liable to register under section 6 but has not done so,

and upon the service of the assessment upon the person, that person is liable to pay the assessment within 14 days unless before then the person has appealed to the Chief Revenue Officer against the assessment.

(2) If the person assessed under subsection (1) does not appeal as provided therein the assessment must be paid by the due date and the person assessed may, but only after making payment and before the expiration of 60 days, appeal to the Chief Revenue Officer against the assessment.

(3) A notice of appeal under subsection (1) or (2) must be accompanied by such information as may be necessary to establish that the assessment is incorrect. The onus of establishing that the assessment is incorrect lies upon the person assessed.

(4) If a notice of appeal under subsection (1) or (2) is lodged the Chief Revenue Officer, must within 21 days thereafter review the assessment together with any information provided and forthwith by notice in writing to the person assessed—

- (a) allow the appeal in whole or part; or
- (b) dismiss the appeal,

and if allowed, vary the assessment in accordance with the decision (including issue of a “nil” assessment).

(5) If an assessment issued under subsection (4) requires the person assessed to make a payment, the registered person must make that payment within 7 days of receipt of the determination together with interest upon the amount payable at the rate of 18% per annum from the date of the first assessment under subsection (1) until the amount payable is paid in full.

**Note:** Interest is only charged upon the balance payable under the revised assessment – not the total amount of the assessment.

(6) If following a review under subsection (4), the Chief Revenue Officer varies the assessment to an amount less than that in the assessment appealed against (the “first assessment”), the Chief Revenue Officer must either—

- (a) at the same time the notice of the determination of the review is served upon the person, refund the amount of the difference between the amount paid in accordance with the first assessment and the assessment as varied; or
- (b) notify the person assessed that the amount paid is to be held as a credit for that person to be applied towards the payment of any amounts then, or which he or she reasonably believes is likely to become, payable by that person under this Act.

....

### **PART 3 - OBLIGATIONS OF REGISTERED PERSONS**

#### **9 Record keeping**

(1) A registered person must keep and maintain records of the acquisition and sale or disposal of all goods and services which must —

- (a) be available for inspection by the Chief Revenue Officer or a person appointed by the Chief Revenue Officer in accordance with subsection 15(4) at all normal business hours and outside such hours (but not before 7:00 am or after 6:00 pm on any week day or after 1:00 pm on a Saturday or on Sunday or a public holiday) on not less than 1 hour’s notice;
- (b) be legible and in the English language;
- (c) state truthfully and accurately the actual price paid, payable and received in respect of —

- (i) all goods and services; and
- (ii) all GST-free supplies; and
- (iii) input tax credit claimed;
- (d) include, where the sale has been made on behalf of the registered person by another person, whether that person is in Norfolk Island or elsewhere, a record of that sale and of the price that the registered person or an associated person has received or expects to receive whether in Norfolk Island or elsewhere in respect of that sale.
- (e) where goods are disposed of otherwise than by way of sale state how they were so disposed of including whether by way of gift, exchange, personal use by the registered person or an associated person, or destruction or otherwise.

**Note:** If a person receives income into a bank account maintained outside Norfolk Island and that income is in respect of goods or services that will be provided in Norfolk Island by that person, or by another person who is a registered person, that income is taxable and a record of its receipt must be maintained by the registered person.

- (2) A registered person who —
  - (a) is in breach of paragraph, (a), (b) or (e) commits an offence —  
Penalty: 10 penalty units.
  - (b) is in breach of paragraphs (1)(c) or (d) commits an offence —  
Penalty: (a) 100 penalty units; and  
(b) for a subsequent offence not less than 50 nor more than 200 penalty units.
- (3) A registered person must retain for a period of 5 years the records kept under subsection (1).
- (4) Regulations may prescribe the manner and form of record retention for the preceding paragraph and may prescribe penalties not exceeding 20 penalty units for breach thereof.

#### **9A Provision of tax invoices**

- (1) A registered person (the “supplier”) who provides a taxable supply to another person (the “recipient”) must at the time of the supply or as soon as practicable thereafter, provide the recipient with a tax invoice or tax receipt if the amount of the invoice exceeds \$50 or such other amount as may be determined by Regulation.
- (2) A tax invoice for a taxable supply—
  - (a) must be issued by the supplier unless it is a recipient created tax invoice (in which case it must be issued by the recipient); and
  - (b) must set out the NBN of the registered person that issues it; and
  - (c) must set out the price for the supply (including the amount of the GST component of the price); and

- (d) must contain such other information as the Regulations specify; and
- (e) must be in the approved form.

However, the Chief Revenue Officer may treat as a tax invoice a particular document that is not a tax invoice.

(3) The supplier of a taxable supply must, within 28 days after the recipient of the supply requests it, give to the recipient a tax invoice for the supply.

(4) A recipient created tax invoice is a tax invoice belonging to a class of tax invoices that the Chief Revenue Officer has determined in writing may be issued by the recipient of a taxable supply.

#### **10 Monthly returns of GST**

(1) Subject to this Act, every registered person or person required to be registered must submit a monthly return to the Chief Revenue Officer no later than the 28th day of each month (or where that day is a Saturday, Sunday or public holiday, the next following day).

(2) A person who fails to lodge a monthly return in accordance with subsection (1) commits an offence.

- Penalty:
- (i) if a natural person – 25 penalty units; or
  - (ii) if a company – 50 penalty units.

(3) A return required by subsection (1) must comply with Part 3A and be in the approved form and certified by the registered person or person required to be registered to be true and correct.

(4) If the information in a return is in the knowledge of the registered person or person required to be registered false, misleading or otherwise incorrect such that the registered person or person required to be registered pays less GST than would have been paid had the return been truthful and correct, the registered person or person required to be registered commits an offence.

(5) A registered person or person required to be registered convicted of an offence under subsection (4) is liable —

- (i) if a natural person – to a penalty not exceeding 50 penalty units; or
- (ii) if a company – to a penalty not exceeding 100 penalty units.

(6) For the purposes of subsection (4) the knowledge of a director, secretary or other officer of a company is deemed to be the knowledge of the company.

(7) Subsection (1) applies whether or not the net amount of GST payable for the month is zero or whether there is any liability for taxable supplies attributable to the month.

## **11 Review of returns**

(1) The Chief Revenue Officer may, at any time within 5 years of the submission of a return, if he or she has reason to believe that the registered person has submitted a return that understates the GST payable, issue the registered person with an assessment of the amount of GST that he or she considers is the correct amount.

(2) If an assessment is issued under subsection (1) the registered person must pay the amount assessed less any amount previously paid, within 14 days whether or not a notice of appeal against the assessment is lodged with the Chief Revenue Officer in accordance with subsection (3).

(3) A notice of appeal against an assessment may be lodged no later than 60 days after the assessment is issued and must be accompanied by such information as may be necessary to establish that the assessment is incorrect.

(4) If a notice of appeal under subsection (3) is lodged the Chief Revenue Officer, must review the assessment together with any information provided and issue to the registered person his or her determination of the review within 21 days which must—

- (a) allow the appeal in whole or part; or
- (b) dismiss the appeal;

and if allowed, vary the assessment in accordance with the decision (including issue of a “nil” assessment).

(5) If following a determination under subsection (4) a registered person is required to make a payment, the registered person must make that payment within 7 days of receipt of the reviewed assessment and in default interest upon the amount payable shall be paid at the rate of 18% per annum from the date of the reviewed assessment until the amount payable is paid in full.

(6) Nothing in this section prevents the Chief Revenue Officer prosecuting a registered person for breach of subsection 10(4) in addition to issuing an assessment under subsection (1).

(7) A registered person may at any time, if an error is found in the presentation or calculation of a return that has resulted in payment of more GST than is required under this Act, request the Chief Revenue Officer to issue an amended assessment and the Chief Revenue Officer must review the assessment in the light of the information provided by the registered person in the manner and in the time described in subsection (4).

(8) If as a result of a review under subsection (7) the Chief Revenue Officer determines that the registered person has paid more GST than was required, the Chief Revenue Officer must—

- (a) issue a revised assessment; and either
- (b) credit the amount of overpayment against any existing liability for GST of the registered person; or
- (c) within 30 days of making the determination refund the amount of the overpayment.

## **12 Time and manner of payment of GST**

(1) On the day that a registered person submits a return in accordance with section 10, the registered person shall pay to the Chief Revenue Officer the GST payable thereon.

(2) A payment of GST must be made to the account of the Chief Revenue Officer in accordance with the Regulations.

....

(4) GST or any moneys payable by a person under this Act is a debt due to the Administration and may be recovered as such.

(5) If a person fails to pay the GST in accordance with subsection (1) the person—

- (a) is liable to pay interest thereon calculated from the due date for payment until the GST is paid at the rate of 18% per annum; and
- (b) commits an offence.

Penalty: (i) if a natural person – 25 penalty units; or  
(ii) if a company – 50 penalty units.

(6) A prosecution under paragraph (5)(b) cannot be commenced unless the person is more than 28 days in arrears in payment.

(7) The offence in paragraph (5)(b) is a strict liability offence.

### **PART 3A — PROCEDURES FOR ATTRIBUTING GST**

#### **12A Attributing GST on taxable supplies**

(1) The GST payable on a taxable supply is attributable to—

- (a) the tax period in which any of the consideration is received for the supply; or
- (b) if, before any of the consideration is received, an invoice is issued relating to the supply—the tax period in which the invoice is issued.

(2) However, if accounting on a cash basis, then:

- (a) if, in a tax period, all of the consideration is received for a taxable supply — GST on the supply is attributable to that tax period; or
- (b) if, in a tax period, part of the consideration is received—GST on the supply is attributable to that tax period, but only to the extent that the consideration is received in that tax period; or
- (c) if, in a tax period, none of the consideration is received—none of the GST on the supply is attributable to that tax period.

**12B Attributing the input tax credits for creditable acquisitions**

(1) The input tax credit to which a registered person is entitled for a creditable acquisition is attributable to—

- (a) the tax period in which any of the consideration for the acquisition is provided; or
- (b) if, before providing any of the consideration, an invoice is issued relating to the acquisition—the tax period in which the invoice is issued.

(2) However, if a registered person accounts on a cash basis, then:

- (a) if, in a tax period, all of the consideration for a creditable acquisition is provided—the input tax credit for the acquisition is attributable to that tax period; or
- (b) if, in a tax period, part of the consideration is provided—the input tax credit for the acquisition is attributable to that tax period, but only to the extent that the consideration in that tax period was provided; or
- (c) if, in a tax period, none of the consideration is provided—none of the input tax credit for the acquisition is attributable to that tax period.

(3) If no tax invoice is held for a creditable acquisition when a GST return is given to the Chief Revenue Officer for the tax period to which the input tax credit (or any part of the input tax credit) on the acquisition would otherwise be attributable—

- (a) the input tax credit (including any part of the input tax credit) is not attributable to that tax period; and
- (b) the input tax credit (or part) is attributable to the first tax period for which a GST return is given to the Chief Revenue Officer at a time when that tax invoice is held.

However, this subsection does not apply in circumstances of a kind determined in writing by the Chief Revenue Officer to be circumstances in which the requirement for a tax invoice does not apply.

**12C Chief Revenue Officer may determine particular attribution rules**

(1) The Chief Revenue Officer may, in writing, determine the tax periods to which:

- (a) GST on taxable supplies of a specified kind; or
- (b) input tax credits for creditable acquisitions of a specified kind; or
- (c) adjustments of a specified kind;

are attributable.



(2) However, the Chief Revenue Officer must not make a determination under this section unless satisfied that it is necessary to prevent the provisions of Part 3 or this Part or applying in a way that is inappropriate in circumstances involving:

- (a) a supply or acquisition in which possession of goods passes, but title in the goods will, or may, pass at some time in the future; or
- (b) a supply or acquisition for which payment is made or an invoice is issued, but use, enjoyment or passing of title will, or may, occur at some time in the future; or
- (c) a supply or acquisition occurring before the supplier or recipient knows it has occurred; or
- (d) a supply or acquisition occurring before the supplier or recipient knows the total consideration; or
- (e) a supply or acquisition made under a contract that is subject to preconditions; or
- (f) a supply or acquisition made under a contract that provides for retention of some or all of the consideration until certain conditions are met; or
- (g) a supply or acquisition for which the GST treatment will be unknown until a later supply is made.

(3) Determinations under subsection (1) override the provisions of this Part (except this section) and Part 3, but only to the extent of any inconsistency.

## **PART 3B — KEEPING RECORDS OF GST TRANSACTIONS**

### **12D Records of transactions**

- (1) A registered person must—
  - (a) keep records that record and explain all transactions and other acts engaged in by the person that are relevant to a supply, importation, acquisition, dealing, manufacture or entitlement to which this subsection applies; and
  - (b) retain those records for at least 5 years after the completion of the transactions or acts to which they relate.
- (2) Subsection (1) applies to—
  - (a) a taxable supply, taxable importation, creditable acquisition or creditable importation made by the person; or
  - (b) a supply made by the person that is GST-free; or
  - (c) if the person is liable, as a recipient of a taxable supply, to pay the GST on a taxable supply—the taxable supply.

(3) If a registered person gives the Chief Revenue Officer a return that takes into account an input tax credit that is attributable to a tax period the person must—

- (a) keep records that record and explain all transactions and other acts engaged in that are relevant to the acquisition or importation in question; and
- (b) retain those records for at least 5 years after the return was given to the Chief Revenue Officer.

**12E Records of elections, choices, estimates, determinations and calculations**

(1) If a registered person makes any election, choice, estimate, determination or calculation, the person must—

- (a) keep records containing particulars of:
  - (i) the election, choice, estimate, determination or calculation; and
  - (ii) in the case of an estimate, determination or calculation—the basis on which, and the method by which, the estimate, determination or calculation was made; and
- (b) retain those records—
  - (i) where circumstances are specified in which the election, choice, estimate, determination or calculation ceases to have effect—for at least 5 years after the election, choice, estimate, determination or calculation ceased to have effect; or
  - (ii) in any other case—for at least 5 years after the election, choice, estimate, determination or calculation was made.

(2) This section requires a record of an arrangement entered into to be kept and retained by the party entering into the arrangement as principal. It does not require such a record to be kept or retained by the party entering into the arrangement as agent.

**12F Offence**

A registered person commits an offence if—

- (a) the person is required to keep or retain a record under section 12D or 12E; and
- (b) the person does not keep or retain the record in accordance with section 12D or 12E.

Penalty: 30 penalty units.

**12G Defence**

Subsection 12D or 12E does not apply if—

- (a) the Chief Revenue Officer notifies the registered person that the person does not need to retain the record; or
- (b) the registered person is a company that has been finally dissolved.

**PART 4 – DISPUTES****13 Re-assessment of monthly returns**

(1) If a registered person is dissatisfied with the result of a review by the Chief Revenue Officer under section 7 or 11, the registered person may, within 21 days following receipt of the decision of the Chief Revenue Officer and the payment within that time of any amount required by that decision to be paid, appeal to the Court of Petty Sessions constituted by the Chief Magistrate, against the result of the review.

(2) Upon the hearing of the appeal, which shall be by way of a hearing de novo, the Court may confirm, vary or set aside the review and the decision of the Court shall be binding upon the Chief Revenue Officer.

(3) The Chief Magistrate may make rules for the procedure for the conduct of an appeal under subsection (2).

**14 Guidelines concerning price exploitation**

(1) The executive member on the advice of the Chief Revenue Officer may by instrument formulate guidelines about when prices for the sale of goods or services (whether or not they are taxable) may be regarded as being in breach of section 21.

(2) The Court shall have regard to the guidelines in any proceedings under section 21.

**PART 5 – ADMINISTRATION****15 Chief Revenue Officer**

(1) There shall be a Chief Revenue Officer appointed by the executive member for such period, and upon such terms and conditions as may be determined.

(2) An appointment under subsection (1) may be renewed.

(3) The Chief Revenue Officer has the general day to day administration of this Act and of any other Act for which he or she is made responsible by the application of such Act or Regulation or by an order of the executive member.

(4) The Chief Revenue Officer may be assisted by such other persons as he or she considers appropriate and who may be designated and assigned such duties as he or she, in consultation with the executive member, determines.

**16 Acting appointments**

(1) The executive member may, by instrument in writing, appoint a person to act as Chief Revenue Officer —

- (a) during a vacancy in the office; or

- (b) during any period, or during all periods, when the Chief Revenue Officer is ill, or is absent from Norfolk Island or is, for any other reason, unable to perform the functions of office,

but a person so appointed to act during a vacancy shall not continue to act for a total of more than 12 months in any period of 3 years.

(2) An appointment under subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(3) Where a person is acting in accordance with this section and the office of Chief Revenue Officer becomes vacant, then, subject to subsection (1), that person may continue to so act until the executive member otherwise directs, the vacancy is filled, or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(4) The executive member may terminate the appointment of a person appointed under this section.

(5) The appointment of a person as Chief Revenue Officer or of a person acting in the position under this section ceases to have effect if the person delivers a written resignation to the executive member.

(6) The validity of anything done by a person purporting to act in accordance with this section shall not be called in question on the ground only that the occasion for the appointment had not arisen, that there was a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect, or that the occasion to act had not arisen or had ceased.

## **17 Delegation**

(1) The Chief Revenue Officer may, in writing, delegate all or any of the Officer's powers and functions under this Act, other than this power of delegation.

(2) A delegation under this section may be to a named person or to a person from time to time holding, acting in or performing the duties of an office, designation or position.

## **18 Information**

(1) The Chief Revenue Officer may, by writing served on a person whom he or she believes to be in a position to do so, require the person to furnish him or her in writing a confidential statement as to any matter —

- (a) that might affect the rights or obligations of a person under this Act; or
- (b) relating to an amount payable by or to a person.

(2) A person so required must not —

- (a) fail to furnish a statement accordingly within 14 days after service of the writing; or
- (b) furnish a statement that is false or misleading in a material particular.

Penalty: 10 penalty units.

(3) Nothing in an enactment or in the relationship between persons (whether the relationship is that of banker and customer, solicitor and client or otherwise) operates so as to prevent a person from compliance with this section or any other provision of this Act.

## 19 Reporting

(1) The Chief Revenue Officer must give the executive member a written report about his or her operations under this Act.

(2) A report under subsection (1) must be given in respect of each quarter commencing on the first day of January, April, July and October and delivered to the executive member by the last day of the month following the quarter.

(3) The executive member must table each report at the meeting of the Legislative Assembly next following its delivery to him or her.

(4) The Chief Revenue Officer must, in addition to the reports in the preceding subsections, provide an annual report to the executive member in accordance with the *Annual Reports Act 2004*.

## PART 5A – PUBLIC RULINGS<sup>19A</sup> PUBLIC RULINGS

(1) The Chief Revenue Officer may, with the approval of the executive member, make a written ruling on the way in which the Chief Revenue Officer considers a relevant provision of the Act or the Regulations applies or would apply to:

- (a) registered persons generally or a class of registered persons; or
- (b) registered persons generally, or a class of registered persons, in relation to a class of schemes or to a particular scheme.

(2) Such a ruling may cover any matter involved in the application of the provision.

(3) Such a ruling is a **public ruling** if notice of it having been made is published in the Gazette by the Chief Revenue Officer; and the notice—

- (a) states that it is a public ruling;
- (b) states where a copy may be obtained.

(4) The Chief Revenue Officer must as soon as practicable, in addition to making copies of a public ruling available for collection, make it available on the website of the Administration in readily downloadable and accessible format.

### 19B Application of public rulings

(1) A public ruling applies from the time it is published or from such earlier or later time as is specified in the ruling.

(2) A public ruling that relates to a scheme does not apply to a registered person if the scheme has begun to be carried out when the ruling is published and:

- (a) the ruling changes the Chief Revenue Officer's general administrative practice; and
- (b) the ruling is less favourable to the registered person than the practice.

### 19C Public ruling ceasing to apply

(1) A public ruling may specify the time at which it ceases to apply.

(2) If a public ruling does not do this, it applies until it is withdrawn.

### 19D Withdrawal of public rulings

(1) The Chief Revenue Officer may withdraw a public ruling, either wholly or to an extent, by publishing notice of the withdrawal.

(2) The withdrawal takes effect from the time specified in the notice but that time must not be before the time the notice is published.

(3) To the extent that a public ruling is withdrawn, it continues to apply to schemes to which it applied that had begun to be carried out before the withdrawal but does not apply to schemes that begin to be carried out after the withdrawal.

(4) The Chief Revenue Officer must publish notice of the withdrawal of a public ruling in the Gazette.

#### **19E Effect of public rulings**

(1) A ruling binds the Chief Revenue Officer in relation to a registered person (whether or not the registered person is aware of the ruling) if:

- (a) the ruling applies to the registered person; and
- (b) the registered person relies on the ruling by acting (or omitting to act) in accordance with the ruling.

(2) A registered person may rely on the ruling at any time unless prevented from doing so by a time limit imposed by the Act or the ruling itself. It is not necessary to do so at the first opportunity.

#### **19F Definitions for Part 5A**

In this Part—

“scheme” means—

- (a) any arrangement; or
- (b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise;

“arrangement” means any arrangement, agreement, understanding, promise or undertaking, whether express or implied, and whether or not enforceable (or intended to be enforceable) by legal proceedings.

### **PART 5B — VOUCHERS**

#### **19G Voucher a taxable supply**

(1) A *voucher* is any voucher, token, stamp, coupon or similar article the redemption of which in accordance with its terms entitles the holder to receive a taxable supply in accordance with its terms, but a postage stamp is not a voucher.

(2) A supply of a voucher is a taxable supply.

(3) The stated monetary value, in relation to a voucher means the monetary value stated on the voucher or in documents accompanying the voucher.

**Note:** A supply of a voucher for supplies up to a stated monetary value is subject to GST. GST will also be payable on the supply for which the voucher is redeemed to the extent that the price of the supply exceeds the stated monetary value of the voucher. If the price of the supply is less than the stated monetary value of the voucher, the registered person may claim the GST paid on that part of the value if any as may be returned by way of adjustment of the person’s GST liability in a tax period.

### **PART 6 – MISCELLANEOUS**

#### **20 Confidentiality**

(1) Information provided to the Chief Revenue Officer under this Act is, unless the information is false or misleading, confidential and may not be disclosed other than to a person responsible for the collating of such information for the purpose of making a report to the Chief Revenue Officer or for the purpose of producing statistics that do not identify the provider of particular information.

(2) A person who discloses any information in breach of subsection (1) or being a person to whom such information is disclosed, further discloses it, commits an offence.

(3) A person to whom subsection (2) applies who makes use of any such information, whether directly or indirectly, for his or her own use or benefit, or that of another person, commits an offence.

(4) A person must not, directly or indirectly, except as contemplated by this section —

- (a) make a record of, or communicate to a person, information concerning the affairs of another person acquired by him or her under this Act; or
- (b) produce to a person or permit a person to have access to a document furnished to him or her for the purposes of this Act.

(5) Subsection (4) does not apply to the communication of information or the production of a document by the Chief Revenue Officer, or by a person authorised by him or her, to —

- (a) the Norfolk Island Government Auditor for the purposes of performing functions or exercising powers in relation to an audit of the office of the Chief Revenue Officer imposed or conferred on the Auditor by or under the *Norfolk Island Act 1979* (Commonwealth) or any other Act, and nothing in this section prevents the Auditor from disclosing that information or publishing that document if the disclosure or publication does not directly or indirectly divulge information identifying the affairs of a particular person; or
- (b) a person performing, in pursuance of employment by the Administration of Norfolk Island, a function under an Act administered by the Chief Revenue Officer for the purpose of enabling that person to carry out that function, or
- (c) the Norfolk Island Social Services Board or the executive member in accordance with the provisions of the *Social Services Act 1980*,

or as contemplated by subsection (1).

(6) Nothing in this section prevents a person to whom it applies from disclosing information obtained under this Act where the person from whom it was obtained consents to that disclosure.

(7) A person to whom this section applies shall not be required to produce in court any document connected with the administration or execution of this Act in the person's custody in the course of his or her employment or to divulge or communicate to a court any matter or thing coming under the person's notice in the course of employment, unless the production, divulgence, communication or publication is made —

- (a) with the consent of the person from whom the information or document was obtained;
- (b) in connection with the administration or execution of this Act; or
- (c) for the purposes of a legal proceeding arising out of this Act or of a report of such proceedings.

(8) A person who commits a breach of a provision of this section commits an offence.

- Penalty —
- (a) imprisonment for 2 years; or
  - (b) 100 penalty units.

**21 Misrepresenting GST or the price of goods or services**

(1) A registered person who misrepresents the sale price of goods or services by —

- (a) indicating that an amount of GST in excess of the rate prescribed by section 5 is included in the price; or
- (b) requiring a person to pay an amount in addition to the price for goods or services claiming that it is for GST,

commits an offence.

Penalty: 100 penalty units.

(2) The price for any goods or services offered for sale by a registered person must be inclusive of GST and must not be advertised otherwise.

Penalty: 20 penalty units.

**22 Penalty notices**

(1) If the Chief Revenue Officer has reason to believe that a person has committed a prescribed offence, the Chief Revenue Officer may, subject to subsection (2), serve on the person a notice —

- (a) stating that he believes that the person has committed the offence and giving the prescribed particulars in relation to the offence; and
- (b) setting out the prescribed penalty in respect of the offence.

(2) The notice shall also state in the case of an offence constituted by a failure to do a particular act or thing —

- (a) that the obligation to do the act or thing continues notwithstanding the service of the notice or the payment of the penalty;
- (b) that if, within the period specified in the notice (being a period that is not less than 21 days), the person pays the prescribed penalty to the Chief Revenue Officer and does the act or thing, no further action will be taken against the person in relation to the offence; and
- (c) that if, at the expiration of the period specified in the notice, the person has not paid the prescribed penalty to the Chief Revenue Officer or has not done the act or thing, proceedings may be instituted against the person; or

(3) Subsection (1) does not empower the Chief Revenue Officer to serve on a person more than one notice under that subsection in relation to commission by that person of a particular offence.

(4) If a notice under subsection (1) is served on a person in relation to an offence constituted by a failure to do a particular act or thing —

- (a) if, within the period specified in the notice, the person has paid the prescribed penalty to the Chief Revenue Officer and does the act or thing - proceedings shall not be instituted against the person in respect of the offence;



- (b) if, at the expiration of the period specified in the notice, the person has paid the prescribed penalty to the Chief Revenue Officer but has not done the act or thing - proceedings shall not be instituted against the person in respect of the offence but the obligation to do that act or thing continues and section 23 applies in relation to the continued failure to do that act or thing as if, on the day on which the person so paid the prescribed penalty, he had been convicted of an offence constituted by a failure to do that act or thing;
- (c) if, at the expiration of the period specified in the notice, the person has not paid the prescribed penalty to the Chief Revenue Officer but has done the act or thing - proceedings may be instituted against the person in respect of the offence; or
- (d) if, at the expiration of the period specified in the notice, the person has not paid the prescribed penalty to the Chief Revenue Officer and has not done the act or thing - the obligation to do that act or thing continues and proceedings may be instituted against the person in respect of the prescribed offence.

(5) The payment of an amount by a person pursuant to a notice served on the person under this section in relation to an offence shall not be taken for any purpose to be an admission by that person of any liability in connection with the offence.

(6) Except as provided by paragraphs (2)(a) and (b) this section does not affect the operation of a provision of this Act, or the Regulations, in relation to the institution of proceedings in respect of offences that are prescribed offences for the purposes of this section.

### **23 Continuing offences**

(1) Where —

- (a) by or under this Act an act or thing is required or directed to be done within a particular period or before a particular time;
- (b) failure to do that act or thing within that period or before that time constitutes an offence; and
- (c) that act or thing is not done within that period or before that time,

the following provisions of this subsection have effect:

- (d) the obligation to do that act or thing continues, notwithstanding that that period has expired or that time has passed, until that act or thing is done;
- (e) where a person is convicted of an offence that is constituted by failure to do that act or thing within that period or before that time, as the case may be, that person is guilty of a separate and further offence in respect of each day after the day of the conviction during which the failure to do that act or thing continues;
- (f) the penalty applicable to each such separate and further offence is a fine not exceeding one penalty unit.

- (2) Where —
- (a) by or under this Act an act or thing is required or directed to be done but no period within which or time by which that act or thing is to be done is specified;
  - (b) failure to do that act or thing constitutes an offence; and
  - (c) a person is convicted of an offence in respect of a failure to do that act or thing,

that person is guilty of a separate and further offence in respect of each day after the day of the conviction during which the failure to do that act or thing continues and the penalty applicable to each such separate and further offence is a fine not exceeding one penalty unit.

(3) Charges against the same person for any number of offences under paragraph (1)(e) or subsection (2) may be joined in the same information or complaint if those offences relate to a failure to do the same act or thing.

(4) If a person is convicted of more than one offence under paragraph (1)(e) or more than one offence under subsection (2), the court may impose one penalty in respect of all the offences of which the person is so convicted but that penalty shall not exceed the aggregate of the maximum pecuniary penalties that could be imposed if a penalty were imposed in respect of each offence separately.

#### **24 Access to premises for the purposes of this Act**

(1) The Chief Revenue Officer, or an individual authorised by the Chief Revenue Officer for the purposes of this section—

- (a) may at all reasonable times enter and remain on any land or premises; and
- (b) is entitled to full and free access at all reasonable times to any documents, goods or other property; and
- (c) may inspect, examine, make copies of, or take extracts from, any documents; and
- (d) may inspect, examine, count, measure, weigh, gauge, test or analyse any goods or other property and, to that end, take samples.

(2) An individual authorised by the Chief Revenue Officer for the purposes of this section is not entitled to enter or remain on any land or premises if, after having been requested by the occupier to produce proof of his or her authority, the individual does not produce an authority signed by the Chief Revenue Officer stating that the individual is authorised to exercise powers under this section.

- (3) A person commits an offence if—
- (a) the person is the occupier of land or premises; and
  - (b) an individual enters, or proposes to enter, the land or premises under this section; and

- (c) the individual is the Chief Revenue Officer or authorised by the Chief Revenue Officer for the purposes of this section; and
- (d) the person does not provide the individual with all reasonable facilities and assistance for the effective exercise of powers under this section.

Penalty: 30 penalty units.

#### **24A Approved forms**

(1) A return, notice, statement, application or other document is in the approved form if, and only if—

- (a) it is in the form approved in writing by the Chief Revenue Officer and executive member for that kind of return, notice, statement, application or other document and for which notice of it having been made has been published in the Gazette by the Chief Revenue Officer and copies of the form have been made available on the website of the Administration in readily downloadable and accessible format; and
- (b) it contains a declaration signed by a person or persons as the form requires; and
- (c) it contains the information that the form requires, and any further information, statement or document as the Chief Revenue Officer requires, whether in the form or otherwise; and
- (d) for a return, notice, statement, application or document that is required to be given to the Chief Revenue Officer—it is given in the manner that the Chief Revenue Officer requires (which may include electronically).

(2) Despite subsection (1), a document that satisfies paragraphs (1)(a), (b) and (d) but not paragraph (1)(c) is also in the approved form if it contains the information required by the Chief Revenue Officer. The Chief Revenue Officer must specify the requirement in writing.

(3) The Chief Revenue Officer may combine in the same approved form more than one return, notice, statement, application or other document.

(4) The Chief Revenue Officer may approve a different approved form for different entities.

#### **25 Regulations**

(1) The Administrator may make Regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A Regulation may create an offence punishable by a penalty not exceeding 10 penalty units.

#### **26 Repeal**

*The Norfolk Island Sustainability Levy Act 2006 is repealed.*

#### **27 Transitional**

(1) The repealed Act continues to apply in relation to matters under section 5, 9, 10, 11, 13, 21, 23 and 24 that were required to, or did, take place before the effective date.

(2) All payments due including any interest thereon owing by a registered person under the repealed Act continue to be due and may be recovered as if that Act was still in force.

(3) Any action for recovery of any amount due to the Administration under the repealed Act and any prosecution for a breach of that Act that has been commenced or may be commenced in respect of a debt due or offence committed under that Act before the effective date may be sued for or prosecuted as if that Act were still in force.

(4) No later than 4:30 pm on 10 April 2007 all registered persons who wish to claim allowable deductions under subsection 5(3) must —

- (a) provide the Chief Revenue Officer with a statement of the stock on hand held by the registered person at midnight on 1 April 2007;
- (b) include in the statement provided under paragraph (a) details of all stock items held and available for sale, their actual cost price, any customs duty paid that is capable of being claimed as a deduction, and a total amount of the cost of all stock held for sale and the total amount of customs duty available to be claimed as a deduction ; and
- (c) such supporting documentation as may be prescribed.

in default of which no allowable deductions may be claimed.

## **28 Consequential amendments to other Acts**

(1) Section 9 of the *Financial Institutions Levy Act 1985* is repealed.

(2) Despite the repeal of section 9 of the *Financial Institutions Levy Act 1985*, that subsection continue to apply, in relation to an amount payable before the commencement of this section, as if that repeal had not happened.

(3) Section 7B of the *Tourist Accommodation Act 1984* is repealed.

(4) Despite the repeal of section 7B of the *Tourist Accommodation Act 1984*, that section continue to apply, in relation to an amount payable before the commencement of this section, as if that repeal had not happened.

(5) This section commences on the effective date.

## **29 Consequential amendment of Regulations**

(1) Paragraphs 3(2)(a), 3(3)(a), 4(2)(a), 5(2)(a) and 5(3)(a) of the *Liquor Regulations 2006* are repealed.

(2) Despite the repeal of paragraphs 3(2)(a), 3(3)(a), 4(2)(a), 5(2)(a) and 5(3)(a) of the *Liquor Regulations 2006*, those paragraphs continue to apply, in relation to an amount payable before the commencement of this section, as if that repeal had not happened.

(3) This section commences on the effective date.

**NOTES**

The *Goods and Services Tax Act 2007* as shown in this consolidation comprises Act No. 4 of 2007 and amendments as indicated in the Tables below.

<b>Enactment</b>	<b>Number and year</b>	<b>Date of commencement</b>	<b>Application saving or transitional provision</b>
<i>Goods and Services Tax Act 2007</i>	4, 2007	s. 5, 27 and 28 effect from 16.03.07; remainder commenced 02.04.07	27
<i>Goods and Services Tax (Amendment) Act 2009</i>	8, 2009	commenced 30.06.09; Schedule commenced 01.07.09	
<i>Goods and Services Tax (Amendment) Act 2012</i>	1, 2012	05.04.12	

*[Previously consolidated as at 10 April 2012]*

<i>Goods and Services Tax (Amendment No. 2) Act 2012</i>	11, 2012	07.12.12
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*[Previously consolidated as at 8 December 2012]*

<b>Ordinance</b>	<b>FRLI registration</b>	<b>Commencement</b>	<b>Application, saving and transitional provision</b>
Norfolk Island Continued Laws Amendment Ordinance 2015 (No. 2, 2015)	17 June 2015 (F2015L00835)	Sch 1 (items 102–106, 344, 345): 18 June 2015 (s 2(1) item 1)	Sch 1 (items 344, 345)

**Table of Amendments**

ad = added or inserted	am = amended	rep = repealed	rs = repealed and substituted
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<b>Provisions affected</b>	<b>How affected</b>	
3	rep	Ord No 2, 2015
4	am	8, 2009
4A	ad	8, 2009
4B	ad	8, 2009
	am	Ord No 2, 2015
4C	ad	8, 2009
	am	Ord No 2, 2015
5	rs	8, 2009
	am	1, 2012

ad = added or inserted      am = amended      rep = repealed      rs = repealed and substituted

Provisions affected	How affected	
6	am	8, 2009
6A	ad	7, 2009
7	rs	8, 2009
8	rep	8, 2009
9	am	8, 2009
9A	ad	8, 2009
10	am	8, 2009
11	am	8, 2009
12	am	8, 2009; 11, 2012
12A	ad	8, 2009
12B	ad	8, 2009
12C	ad	8, 2009
12D	ad	8, 2009
12E	ad	8, 2009
12F	ad	8, 2009
12G	ad	8, 2009
13	am	8, 2009
14	am	Ord No 2, 2015
15	am	8, 2009
18	rs	8, 2009
19A	ad	8, 2009
19B	ad	8, 2009
19C	ad	8, 2009
19D	ad	8, 2009
19E	ad	8, 2009
19F	ad	8, 2009
19G	ad	8, 2009
20	rs	8, 2009
24	rs	8, 2009
24A	ad	8, 2009